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Corporation

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

Kimberly Brennan, an individual; Carmen  
Ponce, an individual,

Plaintiffs,

v.

Johnny Hernandez, an individual; Crete  
Carrier Corporation, an Arizona foreign  
for-profit corporation; John and Jane Does  
1-10; and White Partnerships 1-10

Defendants.

Robert Warix, Individually,

Plaintiff,

v.

Johnny Hernandez and Jane Doe  
Hernandez, Individually and as Husband  
and Wife; Crete Carrier Corporation, a  
Foreign For-Profit Corporation; John  
Does I-X and Jane Does I-X, Individually  
and as Husband and Wife; Black  
Corporations I-X and White Limited  
Partnerships I-X

Defendants

No. 2:24-cv-01740-DJH

(Consolidated with 2:24-cv-01741-DGC)

**NOTICE OF NON-PARTY AT  
FAULT**

1 Defendant Crete Carrier Corporation (hereinafter “Defendant Crete”) by and  
2 through undersigned counsel, designate **Gary Durwin Hand** as a non-party at fault  
3 pursuant to Rule 26(b)(5), A.R.C.P. and A.R.S. § 12-2506 (B).

4 The basis of Plaintiffs’ Complaints<sup>1</sup> is that Defendant Johnny Hernandez  
5 negligently operated a tractor-trailer while in the course and scope of his employment with  
6 Defendant Crete, thereby causing injuries and/or damages to Plaintiffs. Per Plaintiffs’  
7 Complaints and law enforcement<sup>2</sup>, at the time of the subject accident Plaintiffs were  
8 passengers in a vehicle operated by non-party Gary Durwin Hand, heading northbound on  
9 North 27<sup>th</sup> Avenue and West VanBuren Street in Phoenix, Arizona. At the same time,  
10 Defendant Johnny Hernandez was attempting to make a right turn from North 27<sup>th</sup> Avenue  
11 onto eastbound West Buren Street. Based on the damage to the vehicle Gary Durwin Hand  
12 was operating, it is Defendant Crete’s belief that Gary Durwin Hand attempted to go around  
13 the right side of Defendant Johnny Hernandez’s tractor-trailer, which led to the vehicle  
14 Hand was operating hitting the right side of the tractor Hernandez was operating. Thus,  
15 Gary Durwin Hand is at comparatively at fault as to Plaintiff’s claims of negligence related  
16 to his operation of his vehicle, which was the proximate cause of Plaintiff’s injuries.

17 Upon information and belief, the actions of Gary Durwin Hand may have caused  
18 the injuries and/or damages which Plaintiffs allegedly suffered. Discovery is in its early  
19 stages, and Defendant Crete reserve the right to supplement this Notice once discovery gets  
20 underway.

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<sup>1</sup> Plaintiff Kimberley Brennan and Carmen Ponce filed their Complaint in Maricopa  
26 County Superior Court on April 5, 2024. Plaintiff Robert Warix filed his Complaint in  
27 Maricopa County Superior Court on April 2, 2024. Defendant Crete filed Notice of  
Removals as it relates to both cases on July 15, 2024. An Order Consolidating the Cases  
was issued on August 16, 2024 [DKT #:19].

28 <sup>2</sup> Plaintiff Carmen Ponce alleges she was a passenger in the vehicle; however, she  
is not listed on the AZDPS Report.

1 DATED this 9<sup>th</sup> day of September, 2024.

2 JONES, SKELTON & HOCHULI, P.L.C.

3  
4 By /s/ Lauren D. Norton

5 Phillip H. Stanfield

6 Clarice A. Spicker

7 Lauren D. Norton

8 40 N. Central Avenue, Suite 2700

9 Phoenix, Arizona 85004

10 Attorneys for Defendant Crete Carrier

11 Corporation

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 9<sup>th</sup> day of September, 2024, I caused the foregoing document to be filed electronically with the Clerk of Court through the CM/ECF System for filing; and served on counsel of record via the Court’s CM/ECF system.

/s/ Gail Hardin